

Message Text

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ACTION COME-00

INFO OCT-01 EUR-12 EA-10 ISO-00 EB-08 AGRE-00 CEA-01

CIAE-00 DODE-00 FRB-03 H-01 INR-10 INT-05 L-03

LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05 SS-15

STR-07 ITC-01 TRSE-00 USIA-06 SP-02 SOE-02 OMB-01

DOE-15 /118 W

-----118474 241114Z /11

P 241102Z MAR 78

FM AMEMBASSY BRUSSELS

TO SECSTATE WASHDC PRIORITY 5681

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY BONN

AMEMBASSY THE HAGUE

AMEMBASSY LUXEMBOURG

AMEMBASSY ROME

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY TOKYO

AMEMBASSY OTTAWA

AMEMBASSY STOCKHOLM

AMEMBASSY BERN

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E.O. 11652:N/A

TAGS: ETRD, MTN, BE

SUBJ: IDENTIFICATION OF PUBLIC PROCUREMENT ENTITIES IN
BELGIUM.

REF: A. STATE 66974; B. BRUSSELS 5269; C. STATE 75533

1. REFTEL A INDICATED THAT DEPARTMENT WOULD FORWARD A LIST
OF HOST GOVERNMENT PURCHASING ENTITIES WHICH WE WERE ASKED
TO REVIEW AND REPLY TO BY MARCH 28. THE LIST HAS ONLY NOW
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BEEN RECEIVED (REF C); IN ORDER TO AVOID DELAYING OUR
RESPONSE WE ARE PROVIDING COMMENTS OF A GENERAL NATURE
WHICH SHOULD BE PERTINENT. FURTHERMORE WE ARE POUCHING
TO EB/ITP THE FOLLOWING DOCUMENTS WHICH GIVE FULL DETAILS
ON BELGIAN GOVERNMENT PROCUREMENT POLICY:

2. A. THE LAW OF JULY 14, 1976 CONCERNING PUBLIC TENDERS

FOR PUBLIC WORKS, SUPPLIES AND SERVICES.

B. ROYAL DECREE OF APRIL 22, 1977 CONCERNING PUBLIC PROCUREMENT FOR PUBLIC WORKS, EQUIPMENT AND SERVICES (THIS DECREE SETS FORTH GENERAL POLICY AND PROCEDURES FOR HANDLING PUBLIC TENDERS).

C. MINISTERIAL DECREE OF AUGUST 10, 1977 ESTABLISHING THE METHOD OF PREPARING GOVERNMENT TENDERS FOR PUBLIC WORKS, SUPPLIES AND SERVICES.

D. ROYAL DECREE OF APRIL 15, 1977 SETTING UP A STATISTICAL PROCEDURE TO KEEP BETTER TRACK OF PUBLIC TENDERS ISSUED FOR PUBLIC WORKS, SUPPLIES AND SERVICES.

3. THE ROYAL DECREE OF APRIL 22, 1977 PUTS INTO EFFECT THE LAW OF JULY 14, 1976 AS OF JANUARY 1, 1978. THIS NEW REGULATION STANDARDIZES PROCEDURES BY WHICH ANY OFFICIAL ENTITY ISSUES TENDERS FOR PROJECTS AND PURCHASES OF EQUIPMENT AND SERVICES. THE REGULATION APPLIES TO ALL GOVERNMENTAL AND QUASI-GOVERNMENTAL BODIES. BECAUSE OF THE WIDE REACHING EFFECT OF THE NEW REGULATION IT WOULD SEEM TO ESTABLISH THE CLAIM THAT ALL SUCH ENTITIES CAN BE CONSIDERED AS OFFICIAL PURCHASING BODIES SUBJECT TO THE BELGIAN GOVERNMENT CODE.

4. ACCORDING TO MR. HUBERT COUSCHEIR, GOVERNMENT PROCUREMENT EXPERT IN THE OFFICE OF THE PRIME MINISTER, AND IN RESPONSE TO QUESTION POSED PARA 3 REFTEL C, THE LIMITED OFFICIAL USE

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APPLICATION OF THE NEW REGULATIONS TO THE BELGIAN AIRLINE SABENA IS STILL A QUESTION. HOWEVER, BECAUSE OF THAT FIRM'S CONTINUING CHRONIC DEFICIT CONDITION, HE INDICATES THAT THE GOVERNMENT WILL UNDOUBTEDLY ATTEMPT TO TIGHTEN UP ON ITS SURVEILLANCE OF PROCUREMENT PRACTICES BY THE AIRLINE. ANOTHER ROYAL DECREE WOULD BE REQUIRED HOWEVER BEFORE SABENA PURCHASING COULD BE SO GROUPED UNDER THE GENERAL REGULATIONS.

5. A LARGE NUMBER OF BELGIAN ENTITIES ARE SUBJECT TO THESE PROCUREMENT PROCEDURES. AMONG THE MORE PROMISING CUSTOMERS FOR U.S. GOODS AND SERVICES, THE STATE RAILWAYS (SNCB) AND THE CIVIL AIR ADMINISTRATION ARE DIRECTLY CONTROLLED BY THE MINISTRY OF COMMUNICATIONS. THE BELGIAN PORT AUTHORITIES ARE DIRECTLY CONTROLLED BY THE COMMUNES IN WHICH THEY ARE LOCATED BUT ALL SIGNIFICANT INVESTMENT IS PROVIDED BY THE BELGIAN CENTRAL GOVERNMENT. HOSPITALS AND UNIVERSITIES HAVE BUDGETS WHICH ARE DIRECTLY DEPENDANT ON STATE FINANCING. IN GENERAL, ANY ENTITY SUBSIDIZED BY THE CENTRAL GOVERNMENT, E.G., LOCAL GOVERNMENTS, MAJORITY-OWNED FIRMS, AND SEMI-GOVERNMENTAL ENTITIES, MUST SUBMIT INVESTMENT PROJECTS AS WELL AS

OPERATING BUDGETS TO THE APPROPRIATE MINISTER FOR REVIEW AND APPROVAL. APPROVAL RELATES TO THE PURPOSE AND AMOUNT OF THE PROPOSED SPENDING BUT DOES NOT GIVE DIRECTIONS ON CHOICES OF SUPPLIERS.

6. WEAPONS PROCUREMENT IS NOT COVERED BY GENERAL GOVERNMENT POLICY AND SUCH PURCHASES ARE NOT MADE ON THE BASIS OF PURELY COMMERCIAL CONSIDERATIONS. ACQUISITION HOWEVER OF ITEMS OTHER THAN ARMAMENT (E.G. UNIFORMS, TRUCKS, ETC.) BY THE MINISTRY OF DEFENSE AND THE GENDARMERIE ARE SUBJECT TO THE ABOVE MENTIONED GENERAL POLICIES.

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7. A SEPARATE CONTROL IS MAINTAINED OVER THE PURCHASE OF COMPUTERS. THIS CONTROL IS CENTRALIZED IN THE OFFICE OF THE PRIME MINISTER AND IS DESIGNED TO AVOID WASTEFUL DUPLICATION AND IS AIMED AT PROMOTING TIME-SHARING AND

COMMUNALITY OF EQUIPMENT.

8. TENDERS ISSUED BY ANY GOVERNMENT ENTITY COVERED BY THE GOVERNMENT REGULATIONS ARE PUBLISHED EACH FRIDAY IN THE OFFICIAL "BULLETIN DES ADJUDICATIONS". THIS PRACTICE IS LIMITED OFFICIAL USE

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SUBJECT TO CERTAIN CONDITIONS WHICH ARE SUMMARIZED IN A DETAILED LETTER PREPARED BY MR. COUSHEIR FOR THE PRESIDENT OF THE CONSULTATIVE COMMITTEE ON PUBLIC TENDERS OF THE EUROPEAN COMMUNITY (ALSO POUCHED TO EB/ITP). BIDS ABOVE 1 MILLION UNITS OF ACCOUNT FOR SERVICES AND 200,000 UNITS OF ACCOUNT FOR GOODS MUST BE PUBLISHED IN THE OFFICIAL JOURNAL OF THE EUROPEAN COMMUNITIES.

9. EMBASSY IS REPLYING SEPARATELY TO INFORMATION REQUESTED PARA 5 REFTEL A. WE ALSO DRAW DEPARTMENT'S ATTENTION TO REFTEL B WHICH DISCUSSES BELGIAN GOVERNMENT PURCHASES OF U.S. ORIGIN PRODUCTS. OLSEN

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